

HOUSE BILL No. 1343

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2.8.

Synopsis: 211 services. Requires the Indiana telephone relay access corporation for the hearing and speech impaired (InTRAC) to provide funding to a 211 service provider that: (1) is recognized by the utility regulatory commission (IURC); and (2) provides telephone services that allow the use of the 211 dialing code to access a human services information and referral system. Allows a recognized 211 provider to request funding from InTRAC as needed periodically to continue providing 211 services. Requires InTRAC, upon receiving the request, to apply to the IURC for an increase in its monthly surcharge collected through local exchange companies. Provides that the amount of the surcharge adjustment requested must be sufficient to allow InTRAC to continue providing services that meet the requirements imposed on telephone companies by the Americans with Disabilities Act.

Effective: Upon passage; July 1, 2002.

Kruzan, Scholer, Pond

January 15, 2002, read first time and referred to Committee on Commerce, Economic Development and Technology.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1343

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2.8-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]: **Sec. 0.5. As used in this chapter, "211 services" means**
4 **telephone transmission and other services that make possible or**
5 **facilitate the use of the abbreviated 211 dialing code in Indiana to**
6 **access a human services information and referral system.**

7 SECTION 2. IC 8-1-2.8-8.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2002]: **Sec. 8.5. As used in this chapter, "recognized 211 service**
10 **provider" means any organization recognized by the commission**
11 **as an appropriate administrator and authorized user of the 211**
12 **dialing code to provide 211 services in Indiana.**

13 SECTION 3. IC 8-1-2.8-10 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. The general
15 assembly finds and declares the following:

16 (1) That it is in the public interest of the state to promptly provide
17 hearing impaired or speech impaired persons with access to



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telephone services that are functionally equivalent to those provided to hearing persons.

(2) That Title IV of the ADA mandates that each telephone company providing telephone service within the state must provide dual party relay services on or before July 26, 1993, to hearing impaired and speech impaired persons within the territorial area or areas it serves in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) That the most efficient, cost effective, and fair method for LECs to provide dual party relay services to hearing impaired and speech impaired persons and to comply with the federal mandate without the use of tax revenues is the establishment of the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired under this chapter.

(4) That the provision of dual party relay services to hearing impaired and speech impaired persons can be enhanced by providing in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices that facilitate access to the dual party relay services.

(5) That the availability of 211 services in Indiana will improve access to human services information and referral systems for hearing impaired and speech impaired persons and for all citizens of Indiana.

SECTION 4. IC 8-1-2.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. Beginning on June 1, 1991, the commission shall require each LEC to impose a monthly surcharge in the amount of five cents (\$0.05) on each residential and business line (or line equivalent) of its customers to fund and recover costs for:

(1) beginning June 1, 1991, developing and providing dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to hearing impaired and speech impaired persons; **and**

(2) beginning July 1, 2002, support for the operations and activities of a recognized 211 service provider.

SECTION 5. IC 8-1-2.8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) The InTRAC may periodically apply to the commission for an adjustment in the amount of the monthly surcharge that a LEC must impose on its customers under this chapter. Before applying to the commission for such an adjustment, the InTRAC must do the following:

(1) Employ an independent accounting firm to review its

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1 surcharge determinations and to review and audit those accounts
2 of:

3 (A) the InTRAC and its members; **and**

4 **(B) any recognized 211 service provider receiving or**
5 **requesting funds generated by the surcharge;**

6 relevant to the surcharge.

7 (2) File with the commission in connection with its application a
8 copy of the report prepared by the accounting firm under
9 subdivision (1).

10 (b) When the InTRAC applies for an adjustment under this section,
11 the commission may perform audits and tests to verify the calculation
12 of the adjustment. However, the sole purpose of audits and tests by the
13 commission must be to assure that the revenue produced by the
14 surcharge is sufficient to cover the costs incurred by the InTRAC in:

15 (1) providing services that meet the requirements imposed on
16 telephone companies by the ADA; **and**

17 **(2) funding the requests of a recognized 211 service provider**
18 **to support the recognized 211 service provider's operations**
19 **and activities in connection with making 211 services**
20 **available in Indiana.**

21 (c) The costs incurred by the InTRAC **under subsection (b)** include
22 the following:

23 (1) Costs for the development, continued operation, and
24 improvement of dual party relay services that may include in
25 appropriate circumstances in the sole discretion of the InTRAC
26 providing telecommunications devices to hearing impaired and
27 speech impaired persons.

28 (2) The administrative costs of the InTRAC.

29 (3) The amount of reasonable reserves necessary to meet future
30 costs.

31 (4) The amounts paid by the InTRAC to each LEC to compensate
32 the LEC for collection, inquiry, and other administrative services
33 it provides for the surcharges.

34 (5) The amounts paid by the InTRAC to each LEC to compensate
35 the LEC for the necessary costs incurred by the LEC in
36 facilitating inter-connection with and effecting use of the dual
37 party relay service for their respective customers.

38 **(6) The amounts:**

39 **(A) to be provided by the InTRAC to support a recognized**
40 **211 service provider's operations and activities in**
41 **connection with making 211 services available in Indiana,**
42 **if the InTRAC's application under this section is in**

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response to a request by a recognized 211 service provider under section 12.5 of this chapter; and

(B) already being provided to a recognized 211 service provider under a previous request by the recognized 211 service provider under section 12.5 of this chapter.

(c) (d) It is the intent and purpose of this section that the InTRAC shall have available to it at all times sufficient funding to **do the following:**

(1) Develop, provide for, and maintain dual party relay services that meet or exceed the requirements imposed by the ADA.

(2) **Support the continued availability and improvement of 211 services provided by any recognized 211 service provider in Indiana.**

SECTION 6. IC 8-1-2.8-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12.5. (a) As may be necessary, a recognized 211 service provider may apply to the InTRAC for funding to support the recognized 211 service provider's operations and activities in connection with making 211 services available in Indiana. An application under this section must include the following:

(1) The recognized 211 service provider's current and projected costs for providing 211 services in Indiana.

(2) Any other information requested by the InTRAC.

(b) Upon receiving a request for funding from a recognized 211 service provider under this section, the InTRAC shall apply to the commission in a timely manner under section 12 of this chapter for an adjustment to the surcharge to make the funding available. The amount of the surcharge adjustment requested must be sufficient to allow the InTRAC to continue providing services that meet the requirements imposed on telephone companies by the ADA.

SECTION 7. IC 8-1-2.8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. A surcharge shall be collected on the regular monthly bill that a LEC sends to each of its customers. The surcharge may be separately identified on customers' bills as a special surcharge:

(1) for the provision of services, including telecommunications devices as provided in section 10(4) of this chapter, to hearing impaired and speech impaired persons; and

(2) **to support the continued availability and improvement of 211 services in Indiana.**

SECTION 8. IC 8-1-2.8-18 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. The articles of incorporation of the InTRAC must provide the following:

(1) The name of the corporation shall be "Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired".

(2) **Before July 1, 2002**, the sole purpose for which the InTRAC shall be organized and operated is to provide at the lowest cost reasonably possible:

(A) on behalf of telephone companies and the citizens of Indiana; and

(B) in conjunction with telephone companies; adequate and dependable dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices to hearing impaired and speech impaired persons within the territorial area that telephone companies serve in a manner that meets or exceeds the requirements of regulations prescribed by the FCC. **After June 30, 2002, the InTRAC shall be operated for the additional purpose of supporting the continued availability and improvement of 211 services in Indiana.**

(3) The InTRAC must have authority to perform any lawful act that is necessary, convenient, or expedient to accomplish the purpose for which the InTRAC is formed.

(4) No part of the net earnings of the InTRAC may inure to the benefit of any member, director, or officer of the InTRAC, nor shall any member of the InTRAC receive any earnings from the corporation except as follows:

(A) A member may be an independent contractor, a supplier, a vendor, or an authorized agent of the InTRAC and may receive fair and reasonable compensation for the member's provision of goods or services.

(B) An officer may receive reasonable compensation for services that the officer performs in the officer's capacity as an officer of the InTRAC.

(C) A director may be reimbursed for expenses incurred by the director in the performance of the director's duties.

(5) The InTRAC may not:

(A) make an advancement for services to be performed in the future; or

(B) make a loan of money or property to any director or officer of the corporation.

(6) No member, director, or officer of the InTRAC or any private individual may share in the distribution of any of the assets of the

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InTRAC upon its dissolution.

(7) If there is a dissolution of the InTRAC, any of the assets of the InTRAC available for distribution shall be distributed to a charity:

(A) selected by the board of directors of the InTRAC; and

(B) having a purpose that includes providing services to hearing impaired and speech impaired persons.

(8) The InTRAC shall have one (1) class of members consisting of those telephone companies that are designated as authorized LECs by the commission.

(9) Each member of the InTRAC shall serve as a member for as long as the commission finds that the member is a LEC. A member's:

(A) right to vote at meetings of the members of the InTRAC; and

(B) right, title, and interest in or to the corporation; cease on the termination of a member's membership.

(10) Each member present in person or by proxy at a meeting of the members of the InTRAC may cast one (1) vote upon each question voted upon at:

(A) all meetings of the members; and

(B) in any election of a director of the InTRAC.

(11) **Before July 1, 2002**, the board of directors of the InTRAC consists of seven (7) directors selected as follows:

(A) Six (6) directors elected by the members of the InTRAC.

(B) The director of the state office of deaf and hearing impaired services.

(12) **After June 30, 2002, the board of directors of the InTRAC consists of eight (8) directors selected as follows:**

(A) Six (6) directors elected by the members of the InTRAC.

(B) The director of the state office of deaf and hearing impaired services.

(C) The chief executive officer of a recognized 211 service provider selected by the directors described in clauses (A) and (B).

(13) The business, property, and affairs of the InTRAC are managed and controlled by the board of directors of the InTRAC.

SECTION 9. IC 8-1-2.8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21. The InTRAC shall do the following:

(1) Establish, implement, and administer, in whole or in part, a statewide dual party relay service system. Any contract for the

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supply or operation of a dual party relay service system or for the supply of telecommunications devices shall be provided through a competitively selected vendor.

(2) Provide any funding requested by a recognized 211 service provider under section 12.5 of this chapter to support the recognized 211 service provider's operations and activities in connection with making 211 services available in Indiana. Upon receiving a request for funding from a recognized 211 service provider, the InTRAC shall apply to the commission in a timely manner under section 12 of this chapter for an adjustment to the surcharge to make the funding available.

(3) Determine the terms and manner in which each LEC shall pay to the InTRAC the surcharge required under this chapter.

~~(3)~~ **(4)** Annually review the costs it incurred during prior periods, make reasonable projections of anticipated funding requirements for future periods, and file a report of the results of the review and projections with the commission by May 1 of each year.

~~(4)~~ **(5)** Annually employ an independent accounting firm to prepare audited financial statements for the end of each fiscal year of the InTRAC to consist of:

- (A) a balance sheet;
- (B) a statement of income; and
- (C) a statement of cash flow;

and file a copy of these financial statements with the commission before May 2 of each year.

~~(5)~~ **(6)** Enter into contracts with any telephone company authorized by the commission to provide services within Indiana to provide dual party relay services for the telephone company, upon request by the telephone company. However, the InTRAC:

- (A) shall require reasonable compensation from the telephone company for the provision of these services;
- (B) is not required to contract with its members; and
- (C) shall provide dual party relay services to InTRAC members for no consideration other than the payment to the InTRAC of the surcharges collected by the member under this chapter.

~~(6)~~ **(7)** Send to each of its members and file with the governor and the general assembly before May 2 of each year an annual report that contains the following:

- (A) A description of the InTRAC's activities for the previous fiscal year.
- (B) A description and evaluation of the dual party relay

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services that the InTRAC provides.

(C) A report of the volume of services the InTRAC provided during the previous fiscal year.

(D) A copy of the financial statements that subdivision ~~(4)~~ (5) requires.

SECTION 10. IC 8-1-2.8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. If:

(1) a telephone company that is not a member of InTRAC originates, carries, or terminates, in whole or in part, any telecommunication message that uses the InTRAC's dual party relay services; and

(2) refuses to:

(A) enter into a contract with the InTRAC as provided in section ~~21(5)~~ 21(6) of this chapter; or

(B) pay any sums due under such a contract;

the InTRAC may apply to the commission for an order requiring just and reasonable payments or the payments that are due under the contract. The InTRAC may enforce this order in the courts of the state.

SECTION 11. IC 8-1-2.8-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25. The following are not liable in any civil action for any injuries or loss to persons or property incurred by any person as a result of any act or omission of any person or entity listed in subdivisions (1) through (3) in connection with the development, adoption, implementation, maintenance, or operation of any system that provides dual party relay services or telecommunications devices, **or support for 211 services in Indiana**, except for injuries or losses incurred as a result of willful or wanton misconduct:

(1) The InTRAC.

(2) A telephone company providing dual party relay services.

(3) An employee, a director, an officer, or an agent of an entity listed in subdivision (1) or (2).

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "InTRAC" has the meaning set forth in IC 8-1-2.8-6.**

(b) **Notwithstanding IC 8-1-2.8-18(2), as amended by this act, the InTRAC shall amend its articles of incorporation under IC 23-17-17 before July 1, 2002, to provide that after June 30, 2002, the InTRAC shall be operated for the additional purpose of supporting the continued availability and improvement of 211 services in Indiana, as required by IC 8-1-2.8-18(2), as amended by this act.**

(c) **Notwithstanding IC 8-1-2.8-18(12), as added by this act, the**

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1 InTRAC shall amend its articles of incorporation under
2 IC 23-17-17 before May 1, 2002, to provide that the InTRAC board
3 of directors consists of the eight (8) directors described in
4 IC 8-1-2.8-18(12), as added by this act, after June 30, 2002.

5 (d) The seven directors of the InTRAC board of directors
6 described in IC 8-1-2.8-18(11), as amended by this act, shall select
7 the director described in IC 8-1-2.8-18(12)(C), as added by this act,
8 before July 1, 2002. The director selected under this SECTION
9 shall serve on the board beginning July 1, 2002.

10 (e) This SECTION expires January 1, 2003.

11 SECTION 13. An emergency is declared for this act.

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